

## OPINION SUMMARY

### MISSOURI COURT OF APPEALS EASTERN DISTRICT

STATE OF MISSOURI, Respondent,	)	No. ED96004
	)	
vs.	)	Appeal from the Circuit Court of
	)	the City of St. Louis
JOHN SMITH, Appellant.	)	Filed: December 27, 2011

The defendant, John Smith, appeals the judgment entered by the Circuit Court of the City of St. Louis following his conviction by a jury of first-degree burglary, in violation of section 569.160 RSMo. (2000). The trial court sentenced the defendant as a prior and persistent offender to a five-year term of imprisonment. On appeal, the defendant challenges the sufficiency of the evidence, and contends that the State failed to prove beyond a reasonable doubt that he was the person who entered the victim's house.

REVERSED AND REMANDED.

DIVISION TWO HOLDS: Because we conclude that the evidence was insufficient to prove beyond a reasonable doubt that the defendant was the person who entered the victim's home, we reverse the judgment and remand the cause for the discharge of the defendant.

Opinion by: Lawrence E. Mooney, J.      Kathianne Knaup Crane, P.J., and  
Kenneth M. Romines, J. concur.

Attorney for Appellant:      Maleaner R. Harvey

Attorneys for Respondent:      Chris Koster and Robert J. Bartholomew

<p><b>THIS SUMMARY IS NOT PART OF THE OPINION OF THE COURT. IT HAS BEEN PREPARED FOR THE CONVENIENCE OF THE READER AND SHOULD NOT BE QUOTED OR CITED.</b></p>
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